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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE TRANSPACIFIC PASSENGER
AIR TRANSPORTATION
ANTITRUST LITIGATION**

Civil Case No. 3:07-cv-05634-CRB

MDL No. 1913

This Document Relates To:

ALL ACTIONS

**PLAINTIFFS' FURTHER NOTICE
REGARDING CORP XANADU'S CLAIM**

1 Plaintiffs hereby submit this Further Notice Regarding Corp Xanadu's Claim pursuant to
 2 the Court's November 7, 2022 order (ECF No. 1368).¹ This litigation has been completely settled
 3 since December 2019 when the Court granted final approval of the last settlement (ECF No. 1318)
 4 and entered a final judgment as to the last Defendant (ECF No. 1319). In the approximately two
 5 years after that, the claims administrator, Rust Consulting, Inc. ("Rust") processed claims to the
 6 settlements and made an initial distribution of the net settlement funds on March 17, 2022.
 7 Declaration of Joel K. Botzet ¶ 32 ("Botzet Decl.").

8 Claimant Corp Xanadu filed a claim to the net settlement funds. *Id.* ¶¶ 5-6. During the
 9 audit process, Corp Xanadu provided a one-page Affidavit to support its claim. *Id.* ¶¶ 7-8. Rust
 10 mailed a determination letter in August 2021 and check in the amount of \$603,831.08 to Corp
 11 Xanadu in March 2022, both of which were returned as undeliverable with no forwarding address.
 12 *Id.* ¶¶ 9-12. On July 30, 2022, after the initial distribution of the net settlement funds
 13 \$104,387,133.10 on March 17, 2022 and after Class Counsel advised Rust to stop reissuing checks
 14 on July 26, 2022, but before the Court ruled on Plaintiffs' motion for secondary distribution of
 15 the remaining net settlement funds of \$5,448,087.41, Corp Xanadu asked Rust to re-issue the
 16 check in the amount of \$603,831.08. *Id.* ¶ 14.

17 Several facts arose, however, that led to concerns over the validity of Corp Xanadu's
 18 claim. *Id.* ¶ 18; *see also* Plaintiffs' Reply in Support of Motion for Secondary Distribution of
 19 Remaining Settlement Funds and Request for Attorneys' Fees and Reimbursement of Expenses
 20 (ECF No. 1356). Class Counsel expressed some of these concerns to Corp Xanadu, and with

21 ¹ On September 27, 2022, the Court entered the Order Setting Hearing, which provided that "...
 22 Class Counsel and Rust may audit/re-examine Corp. Xanadu's claim, consistent with their
 23 obligation to pay only qualified claimants" (ECF No. 1358). On November 4, 2022, the Court
 24 held a hearing on Plaintiffs' Motion for Secondary Distribution of the Remaining Settlement
 25 Funds and Request for Attorneys' Fees and Reimbursement of Expenses (ECF No. 1364). On
 26 November 7, 2022, the Court directed Class Counsel to provide an update on the audit of Corp
 27 Xanadu's claim by the claims administrator, Rust Consulting, Inc. (ECF No. 1368). On November
 28 8, 2022, Plaintiffs provided an update and stated that they will file a further update regarding Corp
 Xanadu's claim on December 7, 2022 (ECF No. 1370). On December 7, 2022, Plaintiffs provided
 another update and stated that they will file a further update regarding Corp Xanadu's claim on
 January 16, 2023 (ECF No. 1371).

1 Rust's support, requested that Corp Xanadu provide additional information verifying its claimed
2 purchases. *Id.* ¶ 18. The Court issued an order on September 27, 2022 allowing Class Counsel
3 and Rust to "audit/re-examine Corp. Xanadu's claim consistent with their obligation to pay only
4 qualified claimants" (ECF No. 1358).

5 Subsequently, Corp Xanadu provided some documents to Rust on October 18, 2022 and
6 its CEO, Rich Sutton, met with Rust and Class Counsel by Zoom on November 1, 2022. Botzet
7 Decl. ¶¶ 19-20. During this one-hour meeting, Rust and Class Counsel asked, and Mr. Sutton
8 agreed, to provide certain additional documents and/or information to support Corp Xanadu's
9 claim. *Id.* ¶ 20. Rust requested Mr. Sutton provide these documents and/or information by
10 November 30, 2022. *Id.* ¶ 21. Mr. Sutton, on behalf of Corp Xanadu, provided some but not all
11 documents and/or information requested to Rust on November 30, 2022. *Id.* ¶ 21.

12 Rust has now completed reviewing the documents Corp Xanadu provided and has made
13 a determination on Corp Xanadu's claim. *Id.* ¶ 22. Specifically, Rust determined that "there is \$0
14 due in settlement benefits" to Corp Xanadu based on numerous factors. *Id.* ¶¶ 22-23.

15 One of several factors supporting the determination was that the only supporting travel
16 documents that Corp Xanadu provided—the American Airlines itineraries for travel between July
17 2015 and August 2015—redacted all payor information and Corp Xanadu provided no
18 documentation (*e.g.*, bank statements) showing that it paid for such purchases, rendering it
19 impossible for Rust to confirm that Corp Xanadu was the payor of the claimed ticket purchases.
20 *Id.* ¶ 23(a). Furthermore, the American Airlines itineraries did not support Corp Xanadu's claim
21 for 1,337 tickets on five airlines from 2003 through 2008. *Id.* ¶ 6. For these reasons, among several
22 others, Rust determined that Corp Xanadu does not have any valid claim to the net settlement
23 funds. *Id.* ¶ 22. This determination concludes Rust's claims administration work relating to Corp
24 Xanadu. *Id.* ¶ 24.

25 On December 27, 2022, Rust communicated this determination, including a list of the
26 factors supporting the determination, to Mr. Sutton, with copy to Corp Xanadu's attorney, John
27
28

Allen Roth, by email. *Id.* ¶ 22. Rust also communicated this final determination by mail to Corp Xanadu, 8605 Santa Monica Blvd #10287, West Hollywood, CA 90069, on the same day. *Id.*

The Botzet Declaration describes in detail the scope of Rust's claims administration work; Corp Xanadu's claim; all documents and information requested by Rust; all documents and information provided by Corp Xanadu; and Rust's analysis and determination of Corp Xanadu's claim. *See, generally*, Botzet Decl.

On December 8, 2022, the United States Court of Appeals for the Ninth Circuit dismissed Corp Xanadu's appeal of the Court's September 27, 2022 Order Setting Hearing (ECF Nos. 1358 (this Court's order), 1372 (Ninth Circuit order)).

Plaintiffs request that the Court grant their Motion for Secondary Distribution of Remaining Settlement Funds and Request for Attorneys' Fees and Reimbursement of Expenses (ECF No. 1347).

Dated: January 16, 2022

Respectfully submitted,

/s/ Elizabeth T. Castillo

/s/ Christopher L. Lebsack

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